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9

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 COURAGE UHUMWNOMA OSAWE,

13 Plaintiff(s),
14 vs.

15 DMV INVESTIGATOR JENNIFER
16 TINSLEY, DMV INVESTIGATOR
17 BRIAN BOWLES, DMV
18 INVESTIGATOR WILLIAM LYONS
19 and DMV SERGEANT TODD
20 PARDINI; and JOHN DOES I through
21 X, inclusive

22 Defendant(s).
23 _____/

24 Case No. 3:18-cv-00600-RCJ-WGC

25 **MOTION TO COMPEL
26 SCHEDULING OF EARLY
27 CASE CONFERENCE**

28 **ORAL ARGUMENT
REQUESTED**

29
30 COMES NOW, COURAGE UHUMWNOMA OSAWE, (“Osawe” or “Plaintiff”), by
31 and through the undersigned counsel, and hereby files the following Motion to Compel
32 Scheduling of Early Case Conference against DMV INVESTIGATOR JENNIFER
33 TINSLEY (“Tinsley”), DMV INVESTIGATOR BRIAN BOWLES (“Bowles”), DMV
34 INVESTIGATOR WILLIAM LYONS (“Lyons”), and DMV SERGEANT TODD
35

1
2 PARDINI (“Pardini”) (collectively “the Defendants”); and JOHN DOES I through X,
3 inclusive.
4

5 This Motion is made and based upon all of the pleadings and records on file for this
6 proceeding together with every exhibit that is mentioned herein or attached hereto (each of
7 which is incorporated by this reference as though it were set forth hereat in *haec verba*), if
8 any there be, as well as the points and authorities set forth directly hereinafter.
9

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 The Plaintiff filed a Complaint in this matter on December 24, 2019. On February 4,
12 2019, the Defendants filed a Motion for Summary Judgment. On February 7, 2019, the
13 undersigned counsel for the Plaintiff emailed counsel for the Defendant seeking to schedule
14 an early case conference (“ECC”) in this matter. Between February 7-9, 2019, the attorneys
15 for the parties had a phone call and exchanged emails regarding requirement in Federal Rule
16 of Civil Procedure 26(f) that an ECC be held. Counsel for the Plaintiff requested via email
17 that the ECC be scheduled for March 13, 2019, more than a month away from the date the
18 email requesting the ECC be scheduled was sent. *See* Feb. 7, 2019, email in Exhibit 1.
19
20 Counsel for the Defendant has to date refused to agree to schedule the ECC as required by
21 FRCP 26(f) and did not respond to the last email from the undersigned counsel requesting
22 alternative dates on which to schedule the ECC. *See* Feb. 9, 2019 email in Exhibit 1.
23
24

25 Pursuant to FRCP 26(f)(1), the parties must confer “as soon as practicable” to discuss
26 the case and to develop a discovery plan as required by FRCP 26(f)(2). FRCP 26(f) assumes
27 that a Defendant will cooperate in the scheduling of an ECC. LR 26-1(a) requires that a
28

1 Plaintiff's attorney must initiate the scheduling of the ECC required by FRCP 26(f).
2

3 FRCP 37(f) states that if a party or its attorney fails to participate in good faith in
4 developing and submitting a proposed discovery plan as required by FRCP 26(f), the court
5 may, after giving an opportunity to be heard, require that party or attorney to pay to any
6 other party the reasonable expenses, including attorney's fees, caused by the failure.
7

8 WHEREFORE, the Plaintiff respectfully requests that the Court issue an order
9 compelling the Defendants to participate in an ECC and to develop the discovery plan
10 required by FRCP 26(f)(2) on March 13, 2019, at 3 p.m. and award attorneys fees and costs
11 to the Plaintiff associated with the Defendant's failure to cooperate in scheduling the ECC.
12

13 **FRCP 37 Certification**

14 The undersigned counsel certifies that he has in good faith conferred and consulted
15 with counsel for the Defendants in an effort to secure compliance with the requirement to
16 schedule an ECC without Court action as shown in Exhibit 1, and that the matter has not
17 been resolved.
18

19 Respectfully submitted this February 13, 2019.
20

21 By: *Luke A. Busby*
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28

CERTIFICATE OF SERVICE

Pursuant to FRCP 5, I certify that on the date provided below, I caused service

to be completed by:

_____ personally delivering;

_____ delivery via Reno/Carson Messenger Service;

sending via Federal Express (or other overnight delivery service);

depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

XXXX delivery via electronic means (ECF, fax, eflex, NEF, etc.)

a true and correct copy of the foregoing document addressed to:

AARON D. FORD

Attorney General

NATHAN L. HASTINGS (Bar No. 11593)

Senior Deputy Attorney General

State of Nevada

Office of the Attorney General

555 Wright Way

Carson City, NV 89711

(775) 684-4606 (phone)

(775) 684-4601 (fax)

NHastings@ag.nv.gov

Attorney for Defendants

7 13

By: _____

By: Luke A. Bushy
Luke Bushy

Dated: 2/13/2019

Exhibit List

1. Email chain between Busby and Hastings